

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.) 3:18-CR-00500-B(1)
)
CHRISTOPHER AUNDRE FAULKNER,)
)
 Defendant.)

VIA ZOOM

REARRAIGNMENT HEARING
BEFORE THE HONORABLE JANE J. BOYLE
UNITED STATES DISTRICT JUDGE
DECEMBER 1, 2020

A P P E A R A N C E S

For the Government:

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proceedings reported by mechanical stenography,
transcript produced by computer.

SHAWNIE ARCHULETA, CSR/CRR
FEDERAL COURT REPORTER - 214.753.2747

1 **(VIA ZOOM.)**

2 THE COURT: Good morning. This is United
3 States v. Christopher Aundre Faulkner, Case Number
4 3:18-CR-500-B.

5 Who is here for the Government.

6 MR. BUSCH: Your Honor, it's Marcus Busch
7 for the Government.

8 THE COURT: And who is here for the
9 defendant?

10 MR. ROSS: Kevin Ross, Your Honor, for
11 Mr. Faulkner.

12 THE COURT: Mr. Faulkner -- please be
13 seated if you are not already.

14 Mr. Faulkner, hello. How are you?

15 THE DEFENDANT: Hello. I'm okay, thank
16 you, Your Honor.

17 THE COURT: I want to place you under oath
18 before I ask you any questions, so raise your right
19 hand, please.

20 (The Defendant was sworn.)

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: I want to ask you first, you
23 understand you can have these proceedings live. You
24 have the absolute right to have these proceedings
25 live. Now, if you want to do that, it's fine with

1 me, it's fine with everybody, just tell me, or you
2 can do it this way.

3 Which way do you want to do it?

4 THE DEFENDANT: This way is fine, Your
5 Honor, considering the circumstances.

6 THE COURT: And has anybody pressured you
7 in that regard?

8 THE DEFENDANT: To do it this way?

9 THE COURT: Yes.

10 THE DEFENDANT: No. No, ma'am.

11 THE COURT: Anyone promised you any
12 benefits?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: All right. So I find that you
15 have freely and voluntarily waived your right to
16 have a live hearing.

17 Do you agree?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Okay. Mr. Ross, do you agree?

20 MR. ROSS: Yes, Your Honor.

21 THE COURT: Okay. All right. Then, you
22 know -- Mr. Ross, do you have access to him by
23 phone?

24 MR. ROSS: Your Honor, I do have the
25 instructions that Ms. Wilson sent out to be able to

1 call if needed.

2 THE COURT: Um-hum. I just wanted to make
3 sure.

4 Mr. Faulkner, if at the present time
5 during this proceeding, any time at all, you want to
6 talk separately with your lawyer, you just tell us,
7 and we will let you talk to him privately where we
8 can't hear.

9 Do you understand that?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: Okay. If you don't understand
12 something I'm going over -- you know, bottom line
13 is, it's most, most important that you understand
14 everything that's going on here; more than anyone
15 else, you have to understand it. So if you have any
16 questions of me, questions of the Government,
17 questions of Mr. Ross, anything at all, you just
18 have to raise your hand and tell us what you want.

19 Okay?

20 THE DEFENDANT: Okay. Yes, Your Honor.

21 THE COURT: Do you understand?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right. Okay. Now that
24 you are under oath, do you understand that if you
25 answer any of my questions falsely, you could be

1 charged with perjury or making a false statement?

2 Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Okay. All right. What is
5 your full name?

6 THE DEFENDANT: Christopher Aundre
7 Faulkner.

8 THE COURT: How old are you?

9 THE DEFENDANT: I'll be 44 in five days,
10 so I'm currently 43.

11 THE COURT: Okay. I will be 66 in five
12 days.

13 How far did you go in school?

14 THE DEFENDANT: Two years of college.

15 THE COURT: Two years of college.

16 Have you been treated recently for any
17 kind of mental illness or addiction to narcotic
18 drugs or alcohol?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: As you're sitting there right
21 now, are you under the influence of any kind drug or
22 alcohol?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: What are you -- what are you
25 taking these days?

1 THE DEFENDANT: I take a generic version
2 of Lipitor.

3 THE COURT: Okay.

4 THE DEFENDANT: I take Naproxen and
5 Tylenol for my back and my knee issue. And I take
6 Remeron for anxiety. And I've been taking an
7 over-the-counter allergy pill due to the weather, I
8 guess.

9 THE COURT: Is there anything else?

10 THE DEFENDANT: Not that I can think of,
11 no; that's what they prescribed me.

12 THE COURT: Is there anything about those
13 medications that you are currently on that would
14 interfere with your ability to understand this
15 proceeding?

16 THE DEFENDANT: I don't believe so, no,
17 Your Honor.

18 THE COURT: Okay. Okay. Mr. Ross, do you
19 agree with that?

20 Mr. Ross, do you agree with that?

21 MR. ROSS: I do, Your Honor.

22 THE COURT: Okay. All right. Now, there
23 is a big old indictment here and superseding
24 indictment, and it is, let's see, something like 21
25 pages.

1 Now, let me ask you first, have you looked
2 at this indictment? It's -- it's relatively new.
3 It was filed -- well, it's not relatively new. Is
4 it right it was filed 5/29 of '19, Mr. Busch?

5 MR. BUSCH: Yes, Your Honor.

6 THE COURT: That's the most recent
7 charging document, right?

8 MR. BUSCH: Yes, Your Honor.

9 THE COURT: Okay. Have you read
10 thoroughly through this with your attorney?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Okay. I mean, page by page,
13 paragraph by paragraph, because there's a lot in
14 here.

15 Have you read through it like that?

16 THE DEFENDANT: Yes. Around the time it
17 was filed, yes, I did.

18 THE COURT: With your attorney.

19 THE DEFENDANT: Yes, with my attorney.
20 Yes, Your Honor.

21 THE COURT: Okay. Now, do you understand
22 the nature of the charges against you?

23 THE DEFENDANT: Yes. In general terms,
24 sure I do, yes.

25 THE COURT: Now, if you want, you can have

1 this whole indictment read to you. You can have
2 that. No one is trying to not make you get that.
3 You can have the whole indictment read to you here
4 in open court, or you can waive that right. It's up
5 to you. I don't care.

6 Which way do you want to go?

7 THE DEFENDANT: I'm going to waive my
8 right to read it in open court.

9 THE COURT: Okay. Mr. Ross, do you agree
10 with that?

11 MR. ROSS: I do, Your Honor.

12 THE COURT: Okay. All right. Are you
13 fully satisfied with your attorney and the
14 representation and advice he's given to you so far?

15 THE DEFENDANT: In regards to my plea
16 agreement or --

17 THE COURT: Everything. I just want to
18 know if you're happy with him.

19 THE DEFENDANT: Yeah, I -- I think in
20 regards to my plea agreement and the documents that
21 we're discussing today, I'm -- I'm happy with where
22 we're at.

23 THE COURT: But it -- it's a whole
24 process. I mean, from the time Mr. Ross came on
25 until now, everything, are you happy with him?

1 THE DEFENDANT: I would like to -- I would
2 like to speak to Mr. Ross directly at this time.

3 THE COURT: Okay. Mr. Ross, would you
4 call him?

5 MR. ROSS: Sure, Your Honor.

6 THE COURT: And I guess we have to mute or
7 something.

8 MS. WILSON: They do.

9 THE COURT: Be sure to mute.

10 THE DEFENDANT: I'm going to mute now.

11 THE COURT: Yes, and Mr. Ross mutes, too.

12 (Pause in the proceedings; private
13 discussion off the record.)

14 MR. ROSS: Your Honor.

15 THE COURT: Yes, go ahead.

16 Mr. Faulkner.

17 THE DEFENDANT: Yes, I have spoken to
18 Mr. Ross. Thank you for allowing me to do that.

19 THE COURT: Sure.

20 THE DEFENDANT: I can answer your question
21 now.

22 THE COURT: What is your answer as to
23 whether you are fully satisfied with your attorney's
24 representation and advice?

25 THE DEFENDANT: Yes. Up until the plea

1 agreement, yes. I've been through the plea
2 agreement, I'm happy with his representation.

3 THE COURT: And advice. Totally and
4 completely, right?

5 THE DEFENDANT: Yes, ma'am. Yes, Your
6 Honor.

7 THE COURT: Okay. Okay. All right. I
8 next have a plea agreement and a plea agreement
9 supplement.

10 Please -- do you have those document in
11 front of you, Mr. Faulkner?

12 THE DEFENDANT: Yes. Yes, Your Honor, I
13 do. Let me get them out -- let me get them out of
14 my folder here.

15 THE COURT: Okay. Have you read over the
16 plea agreement thoroughly with your attorney?

17 Take your time. I want you to take your
18 time.

19 THE DEFENDANT: I have the three documents
20 in front of me, and I have read over all three.

21 THE COURT: Right now I just want to talk
22 about the plea agreement, just the plea agreement.

23 Have you read through that carefully with
24 Mr. Ross?

25 THE DEFENDANT: Yes, I have, Your Honor.

1 THE COURT: Do you understand it all?

2 THE DEFENDANT: I believe I do, Your
3 Honor.

4 THE COURT: Do you agree with it?

5 THE DEFENDANT: Yes, I do, Your Honor.

6 THE COURT: Did you sign the last page?

7 THE DEFENDANT: Yes, I did, on 2/22.

8 THE COURT: Okay. On the plea agreement
9 supplement, that's another document, get that.

10 THE DEFENDANT: Okay, Your Honor.

11 THE COURT: Have you read through that
12 carefully with Mr. Ross?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And do you understand it?

15 THE DEFENDANT: I believe I do, Your
16 Honor.

17 THE COURT: Do you agree with it?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And did you sign on the last
20 page?

21 THE DEFENDANT: Yes, I did.

22 THE COURT: Now, you have a right -- and
23 in this case, I don't know how you'll go, because I
24 think there's a lot of stuff in here, and I'll have
25 Mr. Busch help me with that.

1 You have a right to have both of these
2 documents read to you here in open court, front page
3 to back, or you can waive that right as to both of
4 them or separately.

5 What would you like to do?

6 THE DEFENDANT: I would waive my right to
7 have it read in open court. I've read them at one
8 time.

9 THE COURT: Okay. Now I want to talk to
10 you about a few things. But Mr. Busch, would you go
11 through the relevant portions of the plea agreement
12 and the plea agreement supplement, I mean like
13 the -- I'm talking about the -- the release of
14 seized property? Would you talk to him about that?

15 MR. BUSCH: Yes, Your Honor. The plea
16 agreement contemplates that the defendant agrees to
17 release to the SEC, the Securities Exchange
18 Commission and transfer any ownership, claim, title,
19 or license to the SEC the following property, and
20 there are a number of items that are listed.

21 THE COURT: Go ahead. I want you to read
22 them.

23 MR. BUSCH: Okay. A: \$43,513.78 seized
24 from the Bank of America account ending in 66 --

25 THE COURT: You're going too fast, but you

1 covered that.

2 Mr. Faulkner, do you agree to that?

3 THE DEFENDANT: I'm not sure what you're
4 asking me to agree to, to Section 8? Paragraph 8?

5 THE COURT: This is part 8. And he's
6 going through the forfeiture. \$45,513.78 seized
7 from Bank of America.

8 Do you agree to forfeit that?

9 THE DEFENDANT: Yes, Your Honor.

10 Sorry, I didn't understand, but I do now.

11 THE COURT: Go ahead, Mr. Busch.

12 MR. BUSCH: The next item is \$122,387.11
13 seized from Wells Fargo, account ending in 9160, in
14 the name of Blue Star Investments, Inc., doing
15 business as Breitling.

16 THE COURT: Mr. Faulkner, do you agree to
17 forfeit that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Okay. Go ahead.

20 MR. BUSCH: Your Honor, the next item is
21 \$85,093.05 seized from BB&T, account ending in 6091
22 in the name of Blue Star Investments, Inc., d/b/a
23 Breitling.

24 THE COURT: Mr. Faulkner, do you agree to
25 forfeit that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Go ahead.

3 MR. BUSCH: And then the last is two
4 large custom oilfield paintings by Alec Monopoly.

5 THE COURT: Okay. How about that, too?
6 Do you agree to forfeit that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Okay. All right. Let's go
9 into -- I want you to talk to him about waiver of
10 appeal or otherwise challenges sentence.

11 MR. BUSCH: Yes, Your Honor.

12 The Government and the defendant have
13 agreed that the defendant waives the following
14 rights conferred by 28 U.S.C. Section 1291 and
15 18 U.S.C. Section 3742 to appeal the conviction,
16 sentence, fine and order of restitution or
17 forfeiture in an amount to be determined by the
18 Court. The defendant waives the defendant's right
19 to contest the conviction, sentence, fine and
20 restitution for forfeiture in any collateral
21 proceeding, including proceedings under 28 U.S.C.
22 Section 2241 and 28 U.S.C. Section 2255.

23 The defendant further -- I'm sorry.

24 THE COURT: No, no, go ahead.

25 MR. BUSCH: Yeah, Your Honor.

1 The defendant further waives the
2 defendant's right to seek any further reduction in
3 the defendant's sentence based on a change in the
4 sentencing guidelines or statutory law. The
5 defendant, however, reserves the rights, (a), to
6 bring a direct appeal of (i) a sentence exceeding
7 the statutory imprisonment or punishment, or (ii) an
8 arithmetic error in sentencing, (b) to challenge the
9 voluntariness of the defendant's plea of guilty or
10 this waiver, and (c) to bring a claim of ineffective
11 assistance of counsel.

12 THE COURT: Okay. Thank you.

13 Mr. Faulkner, did you hear all of those
14 things that you waived under your waiver of right to
15 appeal?

16 THE DEFENDANT: I did.

17 THE COURT: Okay. Now, this -- you
18 understand basically this means that your sentence
19 is the end the case. You cannot appeal your
20 sentence except for very limited circumstances,
21 which I'm going to talk to you about in a minute.
22 But your case is over at sentencing. Do you
23 understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Okay. You can appeal those

1 little things that he told you, and they are very
2 narrow.

3 You can bring a -- if I give you higher
4 than the statutory maximum -- which is not going to
5 happen -- if there's an arithmetic error at
6 sentencing, you can challenge your voluntariness of
7 your plea or the voluntariness of this waiver, and
8 you can bring a claim of ineffective assistance of
9 counsel.

10 Do you understand those are the only
11 things you can bring?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Otherwise, your case is over
14 at sentencing.

15 Understand?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Is that okay with you?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Did anyone promise you
20 anything, promise you any benefits to get you to
21 waive your right to appeal?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Did anyone threaten you or
24 pressure you at all to get you to waive your rights?

25 THE DEFENDANT: No, Your Honor.

1 THE COURT: Do you do so freely and
2 voluntarily?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Knowingly and intelligently?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Okay. I find -- Mr. Ross, do
7 you agree with all that?

8 MR. ROSS: I do, Your Honor.

9 THE COURT: Okay. He has waived his right
10 to appeal then.

11 Okay. Mr. Busch, I'd like to move to the
12 plea agreement supplement. And I would like you to
13 tell me the details of the plea agreement
14 supplement, or tell him about this again.

15 He says he's read this carefully with his
16 attorney, but I would like to have the details of it
17 read into the record as much as you can, I mean
18 summarize.

19 MR. BUSCH: Yes, Your Honor.

20 Regarding the supplement, of course that's
21 a document that the Government filed under seal.

22 THE COURT: This will be placed under
23 seal. This entire hearing is placed under seal.

24 Hold on.

25 MS. WILSON: We have other people

1 watching.

2 (Discussion off the record.)

3 THE COURT: We're going to seal this part
4 of the hearing, but they're going to have to drop
5 everybody from that other room and then let them
6 reconnect. But I think it's very important that we
7 talk about this. So give us just a second.

8 THE DEFENDANT: All right.

9 (Pause in the proceedings.)

10 (Sealed portion; not a part of this
11 record.)

12 THE COURT: Okay. All right.

13 Mr. Faulkner, do you agree with all that
14 Mr. Busch just said about the plea agreement?

15 THE DEFENDANT: The supplement?

16 THE COURT: Yes, just the supplement.

17 THE DEFENDANT: Yes, I agree that's a good
18 assessment of the case. Yes, Your Honor.

19 THE COURT: Okay. All right. Is there
20 anything you want to add from it or take from it?

21 THE DEFENDANT: No. I -- I think that my
22 portion was summarized, my portion in the same
23 document, and I think that -- that properly displays
24 my position about the case as well.

25 THE COURT: Okay. Mr. Ross, do you agree?

1 MR. ROSS: I do, Your Honor.

2 THE COURT: Okay. Now, the most important
3 thing here is that you're comfortable, Mr. Faulkner,
4 that this is the final plea agreement. Okay? So I
5 have to make sure that you're not alleging in any
6 form or fashion that anyone has promised you any
7 benefits for this plea agreement other than what's
8 in the plea agreement. So if there's an agent, if
9 there's an AUSA, your own attorney, or anybody else
10 promised you or implied promised you anything that's
11 not in this plea agreement, you need to tell me
12 right now.

13 THE DEFENDANT: There's none, Your Honor.

14 THE COURT: Okay. You're absolutely sure
15 about that.

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: See, I don't want you to come
18 back in six months to a year and say, Well, I was
19 afraid to talk. My attorney told me not to talk,
20 and I just went along with the process like a little
21 soldier, but I felt really bad about this.

22 THE DEFENDANT: I don't have --

23 THE COURT: Let me finish.

24 This was promised me and that was promised
25 me.

1 So tell me about that.

2 THE DEFENDANT: No, I don't mind talking,
3 Your Honor, if that was the case, but that's not the
4 case.

5 THE COURT: All right. Okay. Has anybody
6 threatened you in any way, pressured you in any way,
7 any agent, anything outside of this plea agreement?

8 THE DEFENDANT: No.

9 THE COURT: Okay. All right.

10 Mr. Ross, do you agree with that?

11 MR. ROSS: I do, Your Honor.

12 THE COURT: Anything else you want to say
13 on that topic, Mr. Faulkner?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: All right, then, I think the
16 plea agreement is an absolute plea agreement with no
17 promises and no threats outside what's in the plea
18 agreement itself, and I will accept it.

19 All right. Now I have to talk to you
20 about your constitutional rights.

21 Do you understand that by pleading guilty
22 to this felony -- I don't know -- I don't know if
23 you have a prior record or. Not, but this felony
24 offense, if I accept your plea, you will be judged
25 guilty, and that judgment may deprive you of

1 valuable civil rights such as the right to vote, the
2 right to hold public office, the right to serve on a
3 jury, and the right to possess any kind of firearm.

4 Do you understand that?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Okay. We lost you somehow.

7 Do you hear me?

8 THE DEFENDANT: I can hear you fine. Can
9 you hear me?

10 THE COURT: Can you see me?

11 THE DEFENDANT: You're back.

12 THE COURT: What?

13 THE DEFENDANT: I can see you.

14 Can you see me?

15 THE COURT: Okay. I can see you now a
16 little bit better. Okay.

17 THE DEFENDANT: Can you hear me?

18 THE COURT: Yes, I can hear you.

19 THE DEFENDANT: Okay.

20 THE COURT: By pleading guilty, you waive
21 a lot of the constitutional rights that you would
22 have otherwise. For example, if you pled not
23 guilty, you can plead not guilty right now, and we
24 can have a whole trial. It's not too late. It will
25 be at the end of this colloquy. If you plead not

1 guilty, you're entitled to a full jury trial with 12
2 people unconnected with the case hearing the
3 evidence.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Admissible evidence, okay. So
7 that narrows it some.

8 Do you understand that?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And if you chose to plead not
11 guilty and your constitutional rights applied, the
12 jury would have to presume you innocent, presume you
13 innocent until the Government and just the
14 Government came forward and proved your guilt beyond
15 a reasonable doubt.

16 Do you understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: You would have no burden
19 whatsoever. You wouldn't have to testify, and
20 nobody could call you if you didn't want to testify.
21 You understand that.

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And you could call witnesses
24 in your case, you could call witnesses, present
25 exhibits if you wanted to. Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And you'd have an attorney to
3 represent you throughout the case, right?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Okay. And you know at trial
6 you'd have the assistance of a lawyer, presumed
7 innocence, the Government would be required to prove
8 you guilty by competent evidence beyond a reasonable
9 doubt, okay, before you could be found guilty. Do
10 you understand that?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: I've already said this, but
13 you have no -- no burden whatsoever to prove you're
14 innocent. Do you understand that?

15 THE DEFENDANT: I do.

16 THE COURT: Okay. And not only could the
17 Government not call you to the stand and you
18 could -- you could sit silent and have nothing at
19 all put on for you, and then it would be -- it's
20 just the Government's proof that proves you guilty,
21 right?

22 Right?

23 THE DEFENDANT: Yes.

24 THE COURT: And if you didn't testify,
25 didn't put anything on, most importantly the jury

1 could not even consider that, not talk about it, not
2 consider it at all in deciding whether or not you
3 were guilty.

4 Do you understand that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: Okay. So you could go through
7 a whole trial, put nothing on, but still have your
8 attorney representing you and cross-examining the
9 Government's witnesses and looking at their evidence
10 and all that. You understand that.

11 THE DEFENDANT: I do.

12 THE COURT: All right. By pleading
13 guilty, you are giving up that right to not testify
14 against yourself, you give up the right to the
15 presumption of innocence, and you give up the right
16 to the Government having to prove your case beyond a
17 reasonable doubt.

18 Do you understand that?

19 THE DEFENDANT: I do.

20 THE COURT: Okay. And once I have
21 accepted your plea -- which I will do in a few
22 minutes I think -- you have no right to get a trial.
23 There's no -- you can't change your mind two minutes
24 from now, five minutes from now, two years from now.
25 You understand that.

1 THE DEFENDANT: I do. It's a big deal,
2 and I understand.

3 THE COURT: It's a big deal, and I want
4 you to make sure you understand. This is your last
5 chance to plead guilty. Do you understand that?

6 THE DEFENDANT: Yes, Your Honor, I do.

7 THE COURT: Mr. Ross, do you understand
8 all that?

9 MR. ROSS: Yes, Your Honor, I do.

10 THE COURT: Okay. All right.

11 All right. Do you understand that you
12 will have to present yourself under oath and admit
13 you're guilty to all the facts of this case?

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Okay.

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And you still wish to persist
19 in this plea.

20 THE DEFENDANT: I do.

21 THE COURT: Mr. Ross, do you agree with
22 that?

23 MR. ROSS: Yes, Your Honor.

24 THE COURT: Okay. How about the
25 punishment, Mr. Busch?

1 MR. ROSS: We can't hear him.

2 THE COURT: Mr. Busch, how about the
3 punishment?

4 MR. BUSCH: I apologize, I was on mute. I
5 apologize.

6 The maximum penalties the Court can impose
7 include imprisonment for a period not to exceed five
8 years as to each of Counts 1, 2, and 21 for a
9 maximum period of 15 years; a fine not to exceed
10 \$250,000 or twice any pecuniary gain to the
11 defendant or loss to the victims as to each of
12 Counts 1, 2 and 21; a term of supervised release of
13 not more than three years as to each count, which
14 may be mandatory under the law and will follow any
15 term of imprisonment as to each count. If the
16 defendant violates the conditions of supervised
17 release, the defendant could be in prison for the
18 entire term of supervised release; a mandatory
19 special assessment of \$100 as to each count for a
20 total of \$300; restitution to the victims or to the
21 community, which is mandatory under the law, which
22 the defendant agrees may include restitution arising
23 from all relevant conduct not limited to that or
24 arising from the offense of conviction alone; costs
25 of incarceration and supervision; and forfeiture of

1 property.

2 THE COURT: Okay. What if he didn't have
3 the (c)(1)(C), what would he be looking at?

4 (Discussion off the record between Ms.
5 Wilson and the Court.)

6 THE COURT: Mr. Busch, what is the maximum
7 that you just told me for years he's looking at, 15?

8 MR. BUSCH: Yes, ma'am, for the three
9 counts -- yes, ma'am.

10 THE COURT: Go ahead. What else were you
11 going to say?

12 MR. BUSCH: I believe that was all, Your
13 Honor.

14 THE COURT: Okay. Mr. Faulkner, did you
15 hear all of what you're going to look at in terms of
16 punishment by entering in this plea?

17 THE DEFENDANT: Yes, I did.

18 THE COURT: Okay. You know, you get the
19 whole 15 years and all that -- all the other stuff
20 that Marcus said. Do you want it repeated? You can
21 have it -- repeat it Marcus, one more time.

22 Mr. Busch.

23 MR. BUSCH: I apologize. I was told to
24 mute myself every time I wasn't speaking.

25 THE COURT: You don't have to mute until

1 we are finished.

2 MR. BUSCH: Okay.

3 THE COURT: Would you please tell him
4 again the punishment range.

5 MR. BUSCH: Yes, Your Honor.

6 The maximum penalties the Court can impose
7 include imprisonment for a period not to exceed five
8 years as to each of Counts 1, 2, and 21 for a
9 maximum period of 15 years; a fine not to exceed --

10 THE COURT: Fifteen years? Go ahead.

11 MR. BUSCH: Yes, Your Honor. That would
12 be the maximum statutory penalty that this defendant
13 faces by pleading to these three particular counts
14 in the indictment.

15 THE COURT: Okay. Okay.

16 MR. BUSCH: A fine not to exceed \$250,000
17 or twice any pecuniary gain to the defendant or loss
18 to the victims as to each of the three counts; a
19 term of supervised release of not more than three
20 years as to each count, which may be mandatory and
21 will follow any term of imprisonment. If the
22 defendant violates the conditions of supervised
23 release, the defendant could be in prison for the
24 entire term of supervised release; a mandatory
25 special assessment of \$100 as to each count for a

1 total of \$300; any restitution to the victims or to
2 the community, which is mandatory under the law, and
3 which the defendant agrees may include restitution
4 arising from all relevant conduct, not limited to
5 that arising from the offense of conviction alone;
6 costs of incarceration and supervision; and
7 forfeiture of property.

8 THE COURT: Now, you heard it again,
9 Mr. Faulkner. Did you hear all of the punishment
10 you are looking at by pleading guilty to this
11 offense?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you understand you could
14 get the full 15 years? Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And all the other things he
17 just said.

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Okay. Do you still wish to
20 persist in this plea?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Mr. Ross?

23 MR. ROSS: Yes, Your Honor.

24 THE COURT: Okay. All right. Now, I will
25 tell you what -- you know, this is a little bit

1 different. Usually -- normally what happens is they
2 put together a presentence report. And they've
3 already got that together -- are they going to add
4 to it, Jenelle -- yeah, yeah, you will get a
5 presentence report. I don't know how long it will
6 take, up to three months, but I don't think with you
7 it will take that long.

8 You have a -- and you know what this is.
9 A presentence report is a big report. It has stuff
10 about your background, your family, any prior
11 convictions and, most importantly, your offense,
12 your role in the offense, any victims of the
13 offense, and all of that together in a presentence
14 report, and then it comes up with a guideline range
15 I think. Yes. Is that correct, Mr. Busch?

16 MR. BUSCH: Yes, Your Honor.

17 THE COURT: Okay. Okay. Do you
18 understand that then I get the report -- you will
19 get it first. And so you can look at it and object
20 to it and all of that. And maybe you can object to
21 it twice, but you will get it and the Government
22 will get it.

23 Do you understand that?

24 THE DEFENDANT: Yes, Your Honor, just like
25 the first time, right?

1 THE COURT: Right. Right. Right. Right.
2 And then I will decide what the punishment will be,
3 I and I alone. So if somebody wants five years or
4 if somebody wants 10 years or somebody wants 15
5 years, it doesn't matter. I mean, it may be -- we
6 start with the guideline range, whatever it is. And
7 then I go from that, and if I have reasons to go
8 from that, I will go way up, up to 15, you
9 understand?

10 THE DEFENDANT: Yes.

11 THE COURT: And I, alone, decide that with
12 no objections -- I mean, I will listen to objections
13 from the defense or the prosecution, you know, once
14 I've made up my mind. Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Okay. It will be my decision
17 and my decision alone.

18 THE DEFENDANT: We will have a chance to
19 address the Court prior to that.

20 THE COURT: Oh, yes, you will have a
21 chance to address me, and I will listen to what you
22 say, and I will base my decision on the presentence
23 report and on what you say at sentencing. Do you
24 understand that?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Okay. But otherwise, you
2 know, I and I, alone, will make the final decision.

3 Do you understand that?

4 THE DEFENDANT: I understand, yes.

5 THE COURT: No help from your attorney.

6 THE DEFENDANT: Right.

7 THE COURT: And no help from the
8 Government.

9 THE DEFENDANT: Right. You're the judge,
10 Your Honor.

11 THE COURT: Okay. I want to make sure you
12 understand that.

13 THE DEFENDANT: I do.

14 THE COURT: Okay. Understanding that, do
15 you still wish to enter in this plea?

16 THE DEFENDANT: I do.

17 THE COURT: Okay. Mr. Ross, do you agree
18 with that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Okay. Okay. Mr. Faulkner,
21 would you like to talk separately with your attorney
22 before we go any further?

23 THE DEFENDANT: I don't know if I have
24 reason to at this point.

25 THE COURT: Well, why don't you do it just

1 for a few minutes and just make sure, all right,
2 because we're going to close up pretty soon. All
3 right?

4 THE DEFENDANT: Okay. Sure. He can call
5 me.

6 THE COURT: Okay.

7 THE DEFENDANT: I'm on mute.

8 (Recess taken.)

9 THE DEFENDANT: Okay, I'm back.

10 THE COURT: Then, Mr. Faulkner, now that I
11 have informed you of your rights and the possible
12 consequences of pleading guilty, how do you plead to
13 the indictment -- is it the indictment, Mr. Busch?

14 MR. BUSCH: Yes, Your Honor.

15 THE COURT: Have you --

16 MR. BUSCH: I'm sorry, Your Honor, Counts
17 1, 2 and 21 of the indictment.

18 THE COURT: How do you plead to Counts 1,
19 2 and 21 of the indictment, guilty or not guilty?

20 THE DEFENDANT: Guilty, Your Honor.

21 THE COURT: Okay. Now, before I can
22 accept your plea, I have to make sure that you agree
23 to the facts that occurred that underlie your plea.
24 So that's the factual resume.

25 Do you have that in front of you?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right. I want you to
3 spend some time, say three minutes or so, and look
4 over the entire factual resume again.

5 (Pause in the proceedings.)

6 THE COURT: Especially the stipulated
7 facts.

8 THE DEFENDANT: Okay, Your Honor.

9 THE COURT: All right. Okay. Do you
10 agree with what this document says front to back,
11 paragraph by paragraph?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: You can have the full factual
14 resume read to you here in open court, or you can
15 waive that right. It's up to you.

16 THE DEFENDANT: In the interest of time, I
17 will waive it being read in open court.

18 THE COURT: No, no. If you want it read,
19 you can have it read.

20 THE DEFENDANT: I understand. No, I've
21 read it.

22 THE COURT: Mr. Ross, do you agree with
23 that?

24 MR. ROSS: I do, Your Honor. We have gone
25 over it, and I would concur with waiving.

1 THE COURT: Okay. Did you look over it
2 carefully with your attorney, too?

3 THE DEFENDANT: I did.

4 THE COURT: All right. All right. Did
5 you sign the last page, Mr. Faulkner?

6 THE DEFENDANT: I did.

7 THE COURT: Did you, Mr. Ross?

8 MR. ROSS: I did, Your Honor.

9 THE COURT: Okay. Let's get the essential
10 elements of the offense.

11 Mr. Busch.

12 MR. BUSCH: Yes, Your Honor. For Counts 1
13 and 2 of the superseding indictment, those charging
14 securities fraud violations and aiding and abetting,
15 the Government must prove each of the following
16 elements beyond a reasonable doubt:

17 First: That in the offering or sale of
18 the securities described in the superseding
19 indictment, that is fractional undivided interests
20 in oil and gas rights, the defendant did any one or
21 more of the following:

22 One: Employed a device, scheme, or
23 artifice to defraud; or, two, obtained money or
24 property by means of untrue statements of material
25 facts or failure to state material facts likewise

1 said, under the circumstances, misleading; three,
2 engaged in an act, practice or course of business
3 that operated, or would operate, as a fraud or
4 deceit upon a purchaser;

5 Second: That the defendant acted
6 knowingly, willfully and with the intent to defraud;

7 Third: That the defendant used, or caused
8 to be used, the mails, or any means or instruments
9 of transportation or communication in interstate
10 commerce, in furtherance of the scheme.

11 The elements of aiding and abetting, a
12 violation of 18 U.S.C. Section 2, are as follows:

13 First: The offense of securities fraud
14 was committed by some person;

15 Second: That the defendant associated
16 with the criminal venture;

17 Third: That the defendant purposely
18 participated in the criminal venture;

19 Fourth: That the defendant sought by
20 action to make that venture successful.

21 Now, in order for the Government to prove
22 the offense alleged in Count 22 (sic), charging tax
23 evasion, 26 U.S.C. 7201, the Government must prove
24 each of the elements beyond a reasonable doubt:

25 First: That there exists a substantial

1 tax deficiency owed by the defendant to the Internal
2 Revenue Service as charged;

3 Second: That the defendant committed at
4 least one affirmative act to evade or defeat
5 assessment or payment of the income taxes owed. An
6 affirmative act includes any conduct the likely
7 effect of which would be to mislead or conceal; and

8 Third: That the defendant acted
9 willfully, that is, the law imposed a duty upon the
10 defendant, and the defendant knew of that duty, and
11 the defendant voluntarily and intentionally violated
12 that duty.

13 THE COURT: Okay. Thank you.

14 Mr. Faulkner, did you --

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: -- hear all of the elements of
17 your offenses just read by Mr. Busch?

18 THE DEFENDANT: I did.

19 THE COURT: Okay. Do you admit on your
20 oath in open court that you committed each of these
21 offenses with those essential elements included when
22 you committed this offense?

23 THE DEFENDANT: I do.

24 THE COURT: Okay. All right. Mr. Ross,
25 do you agree with that?

1 MR. ROSS: Your Honor, I do. Just one
2 point of clarification. I believe that when
3 Mr. Busch was reading the charge for tax evasion, he
4 stated "Count 22." It's actually Count 21, just for
5 purposes of the record.

6 THE COURT: Mr. Busch, you agree with
7 that?

8 MR. BUSCH: Yes, Your Honor, and I
9 apologize for the mistake.

10 THE COURT: Mr. Faulkner, I'm about to
11 close here.

12 Is there anything you want to say to me,
13 ask me or ask your attorney?

14 THE DEFENDANT: Not at this time, Your
15 Honor, no.

16 THE COURT: Okay. And Mr. Ross, do you
17 want to say anything?

18 MR. ROSS: No, Your Honor.

19 THE COURT: Mr. Busch?

20 MR. BUSCH: No, Your Honor. Thank you.

21 THE COURT: Okay. I find that the
22 defendant is fully competent and capable of entering
23 an informed plea; that he is aware of the nature of
24 the charges against him and the consequences of his
25 plea; that his plea of guilty is knowing and

1 voluntary, supported by an independent basis in fact
2 containing each of the essential elements of the
3 offense.

4 His plea is therefore accepted, and it is
5 ordered and adjudged that the defendant is guilty of
6 the offenses charged in Count 1, 2 and 21.

7 All right. Now, we will have the
8 sentencing, and the sentencing date is -- when is
9 that? Hold on -- April 1, 2021; April 1 of 2021.

10 The presentence report is due on or before
11 February 25th; that's February 25th.

12 Everything else is in the imaged docket
13 sheet, which you all have access to.

14 Is there anything else before we adjourn?

15 Mr. Busch?

16 THE DEFENDANT: No, Your Honor.

17 MR. BUSCH: Not from the Government, Your
18 Honor.

19 THE COURT: And Mr. Ross?

20 MR. ROSS: Nothing further, Your Honor.

21 THE COURT: Mr. Faulkner?

22 THE DEFENDANT: No, Your Honor.

23 THE COURT: Okay. Thank you all very
24 much. We will be in recess.

25 (Court in recess.)

C E R T I F I C A T E

I, Shawnie Archuleta, CCR/CRR, certify
that the foregoing is a transcript from the record
of the proceedings in the foregoing entitled matter.

I further certify that the transcript fees
format comply with those prescribed by the Court and
the Judicial Conference of the United States.

This 12th day of January 2022.

s/Shawnie Archuleta
Shawnie Archuleta CCR No. 7533
Official Court Reporter
The Northern District of Texas
Dallas Division

My CSR license expires: December 31, 2022

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